

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRENDAN WELCH,

Plaintiff,

vs.

JAMES C. STECKER, JODI L. NELSON,
JUDGE KARIN NOAKES, and FBI
NEBRASKA/AGENT MCGOWAN,

Defendants.

4:23CV3157

MEMORANDUM AND ORDER

Pro se plaintiff Brendan Welch ("Plaintiff"), a non-prisoner, filed a Motion seeking to stay the case in its entirety until he is released from incarceration so he may file a second amended complaint (the "Motion"). [Filing No. 19](#). As cause for his Motion, Plaintiff submits that because of his recent incarceration he does not have access to the resources necessary to properly amend his complaint and likely will not until his release. [Id.](#)

"While incarcerated individuals do have restricted rights in pursuing civil actions, reasonable alternatives to indefinite stays should be considered before granting a request to stay a matter until a plaintiff's release from confinement." [Devine v. Walker, No. 4:18-CV-4156, 2021 WL 3625308, at *2 \(W.D. Ark. Aug. 16, 2021\)](#) (citing [Muhammed v. Warden, Baltimore City Jail, 849 F.2d 107, 112 \(4th Cir. 1988\)](#) (citing [Wimberly v. Rogers, 557 F.2d 671, 673 \(9th Cir. 1977\)](#))). However, this Court need not consider addressing Plaintiff's Motion, as Plaintiff recently notified the Court of his release, [Filing No. 23](#), rendering his Motion seeking a stay of the case due to his incarceration as moot.

Plaintiff, however, also seeks leave to amend his Amended Complaint and Supplement. [Filing No. 19 at 1](#). [Rule 15](#) of the Federal Rules of Civil Procedure provides

“[t]he court should freely give leave [to amend] when justice so requires.” [Fed. R. Civ. P. 15\(a\)\(2\)](#). Due to the early stage in the proceedings, leave to amend shall be granted. Plaintiff shall have 30 days to file an amended complaint.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion, [Filing No. 19](#), is granted in part and denied in part. Leave to amend the complaint is granted, but to the extent Plaintiff seeks to stay the case, the Motion is denied as moot.

2. Plaintiff now has through and until **November 4, 2024**, to file an amended complaint in compliance with this order. If Plaintiff fails to file an amended complaint or otherwise respond or seek an extension to do so prior to the expiration of the November 4, 2024, deadline, the Court shall perform an initial review of the claims set forth in Plaintiff’s Amended Complaint, [Filing No. 16](#), and Supplement, [Filing No. 17](#), to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#).

3. If Plaintiff seeks additional time to comply with this order, he must file a motion seeking an extension of time before the expiration of the November 4, 2024, deadline.

4. The Clerk’s Office is directed to set a pro se case management deadline in this case using the following text: **November 4, 2024**: Check for amended complaint.

Dated this 4th day of October, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon", written over a horizontal line.

Joseph F. Bataillon
Senior United States District Court